IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24703 of 2004

Between:

P.Ramakrishnaiah, S/o. Pedda Sanjeeva Kondaiah
H.No.30/726-A, Vijaya Nagar Colony, Bommala Satram, Nandyal

Town, Kurnool District.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Kurnool
3 The Sub-Division Prohibition & Excise officer Jammalamadugu,
Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction , more particularly one in the nature of Writ of Mandamus declaring the in action of the Respondents in not releasing the Auto Rickshaw bearing No.AP. 21W 2013 to the petitioner pending Appeal before the 1st respondent as illegal arbitrary and unjust and No.AP. 21W 2013 to the petitioner pending appeal before the 1st respondent in the interest of justice.

Counsel for the Petitioner: MR.G.SRINIVASULU REDDY

Counsel for the Respondents 1 to 3: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following ORDER:

The auto rickshaw of the petitioner bearing No.AP 21W 2013 was seized by the third respondent on 19.09.2004, on the allegation that it was involved in transporting 100 liters of illicit distilled liquor. Proceedings were initiated under Section 34(a) of the A.P. Excise Act before the second respondent. Through orders dated 27.11.2004, the second respondent confiscated the vehicle of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the first respondent, together with an application for interim custody of the vehicle. The petitioner states that the first respondent has not passed any orders so far. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise.

On receiving a show cause notice from the second respondent, in the proceedings initiated under Section 34(a) of the Act, the petitioner made an application for interim custody of the vehicle. The second respondent took up the main proceedings and directed confiscation of the vehicle. The petitioner preferred an appeal before the first respondent. The legality or otherwise of the order of confiscation, needs to be considered by the first respondent. However, the continued detention of the vehicle would cause undue hardship to the petitioner. It is stated that the petitioner is depending on the vehicle for his livelihood. The interests of the State can be protected by requiring the petitioner to furnish adequate bank guarantee for a reasonable amount. The auto rickshaw is said to be an old one.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that the third respondent shall release the vehicle bearing No. AP 21W 2013 in favour of the petitioner on his furnishing bank guarantee for a sum of Rs.5,000/- (Rupees Five thousand only). There shall be no order

as to costs.

30.12.2004

ksld

To

1 The Commissioner of Prohibition & Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Kurnool.
3 The Sub-Division Prohibition & Excise officer Jammalamadugu, Kadapa District.

4 2CCs to the G.P. For Prohibition and Excise, High Court Buildings,

Hyderabad (OUT).

5 2 CD copies.